IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

Crl.MC.No. 87 of 2007()

CC.605/2005 of ASSISTANT SESSIONS COURT, MANJERI
CRIME NO.373/01 OF KONDOTTY POLICE STATION.

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PETITIONER: ACCUSED

ABOOBACKER VADAKKENGARA,
S/O.AHAMMEDKUTTY, PALLATHIL HOUSE,
KULATHOOR, THURACKAL P.O.,
KONDOTTY, MALAPPURAM DISTRICT.

BY ADV. SRI.O.V.MANIPRASAD
SRI.P.C.SASIDHARAN

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA,
(THE SUB INSPECTOR OF POLICE, KONDOTTY
POLICE STATION CRIME NO.373/2001)
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 87 OF 2007

Dated this the 11th day of January, 2007

ORDER

The petitioner is the 2nd accused in a prosecution, inter alia, under Sec.324 read with Sec.149 of the IPC. Some of the co-accused have already been tried, found not guilty and acquitted. The petitioner was not available for trial. The case against him has been split up. The petitioner now wants to appear before the learned Magistrate. He apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He has hence come to this Court with a prayer that directions may be issued under Sec.482 of the Cr.P.C. to the learned Magistrate to release him on bail when he surrenders and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's

application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge